



CITY OF HUNTINGTON BEACH FINANCE BOARD

TO: THE CITY COUNCIL
FROM: FINANCE BOARD
SUBJECT: RECOMMENDATIONS TO CONTRACT NEGOTIATIONS WITH RAINBOW DISPOSAL
DATE: MAY 25, 2006
CC: PENNY CULBRETH-GRAFT, CITY ADMINISTRATOR
DAN VILLELLA, FINANCE DIRECTOR
RON SHENKMAN, CHAIRMAN (RAINBOW DISPOSAL CO., INC)
BRUCE SHUMAN, PRESIDENT & CEO (RAINBOW DISPOSAL CO., INC)
JERRY MOFFAT, PRESIDENT & COO (RAINBOW DISPOSAL CO., INC)

During our regular Finance Board meeting on April 25, 2006, representatives from Rainbow Disposal gave a PowerPoint presentation and discussed their proposed changes to the current refuse collection and processing system for residents of Huntington Beach. The Finance Board requested this presentation to determine potential impacts, financial and otherwise, to the City of Huntington Beach and to the residential ratepayers due to these proposed changes. Rainbow's presentation was more comprehensive and 50% longer than the version presented to the City Council on January 3, 2006.

In order for Rainbow to incorporate the changes they are requesting, Rainbow's contract with the City of Huntington Beach must be renegotiated. The Finance Board's timing of this meeting was planned so we could provide the City Council with our recommendations and/or concerns prior to the completion of these contract negotiations.

Rainbow's presentation to the Finance Board provided a background on the technologies involved in the proposed new system, the upgrades required and the costs associated with both. The Board was also presented with Rainbow's estimate of potential savings due to anticipated employee efficiencies and improved recyclable recapture rates directly related to the new system. During and after the presentation, many questions were asked and discussions ensued. In all, it was a well thought out presentation accompanied by spirited discussion.

The Finance Board notes that, as a normal operating cost, most businesses must periodically replace a portion of their vehicle fleet. If Rainbow does not move to this proposed program of curbside recycling, Rainbow is still required by law to move to cleaner fuel burning vehicles by 2007. This new program will allow Rainbow to meet this legal requirement. And according to Rainbow's estimates, they can completely cover the costs for the necessary upgrades, including replacement of trucks and free trash cans/carts for residents, with the savings they will realize in efficiencies and in additional recapture of recyclables.

Overall, the Finance Board is supportive of curbside recycling but we do have concerns about certain aspects of the program and the contract. Accordingly, there are several points that the Finance Board believes should be considered by the City Council in their contract discussions with Rainbow:

1. Although it was not specifically addressed in the meeting, it seemed that Rainbow was anticipating the city would provide them with another "evergreen contract," that is a contract that annually extends its duration unless cancelled years in advance. After Rainbow's presentation was finished and during our Board discussions, Board members expressed concern that an "evergreen contract" is not in the best interests of the City and its ratepayers.

In a Public Works Staff Report dated January 27, 1993, the reason for the current 15-year evergreen contract was given as follows:

"Rainbow Disposal was receptive to the idea and stated that they were ready to do whatever the City wanted done (curbside, MRF, etc.) in order to meet the mandate of AB-939. But they also noted that financing for MRF option would require the granting of a 15 year 'evergreen' (i.e. extended term) contract by the City"

The Board believes there is no longer a need for this type of contract since the financing of the MRF system has long been completed and, according to Rainbow, the financing for the proposed changes will be paid for by the anticipated savings of the new system over the next ten years. It is believed that a long term contract, coupled with the term of the bonds, i.e., 10 years, would give Rainbow the time they need to pay off their bonds and give the City the opportunity to renegotiate this "public service" on a timely basis.

2. It seems that a portion of the anticipated revenue increase will be partially due to the efforts of the residents of the City of Huntington Beach. In order for Rainbow to realize a greater return on the recyclables and to experience the efficiencies of the new system, the residents of Huntington Beach will be impacted in a number of different ways:

- The requirement to sort trash
- Limitations on amount of weekly refuse based on the number and size of the new containers
- New parking restrictions
- Possible increase in scavenging

Because of this we believe that some kind of rate relief should be designated during the negotiations and incorporated into the new contract. For example, Rainbow presented a slide that tracked the dollar value per ton of recyclables. It seems that the price fluctuates, like any other commodity. If the price for this commodity were to increase, a formula could be established where the trash rates are reduced accordingly. It could also be stipulated that if the anticipated efficiencies to the system exceed the anticipated savings, a portion of that too could be used to reduce rates.

3. It was also pointed out that the current contract formula used to determine trash rates includes, in part, the CPI plus the price of fuel. Since the CPI already includes a factor for the price of fuel, is this not over weighting the impact of fuel costs? The Board thinks this should also be considered during the contract negotiations.

4. Both Rainbow and City Council members have stated that Rainbow provides a number of “free” services to the City. Rainbow’s presentation valued these free services at \$737,273 for 2005. (Rainbow also pays franchise fees and transfer station host fees to the City of approximately \$962,000.) Additionally, Rainbow’s proposal includes a new compressed natural gas (CNG) fueling station in the city. Rainbow has offered, as another free service, to make this CNG fuel station available for City vehicles.

While we applaud Rainbow’s civic spirit, we have concerns about these types of relationships. As the City negotiates the new contract with Rainbow, there is a potential for even greater “free” services for the City. However, the Finance Board has some concern that “free” services to the City are paid by others, i.e., the ratepayers, and could be legally suspect. At a minimum, “free” City services could put the City in an awkward position as they negotiate on behalf of the residents of Huntington Beach.

5. We want to ensure that all City departments themselves are considered for inclusion in this recycling program. Although we did not have a presentation from staff regarding current recycling efforts by the City, we want to ensure that the new contract provides incentives for the City to recycle.

In summary our recommendations are:

1. Eliminate the evergreen aspect of the contract
2. Consider rate relief to offset residents’ participation efforts
3. Examine the formula for future rate increases
4. Fully understand the consequences and legality of “free” services, current and proposed
5. Ensure that all City departments are motivated to recycle

We appreciate the opportunity to provide you with these recommendations. If you have any further request of us, we are available to assist in this process.



Charles Falzon
Chairman, Finance Board

Tim Geddes, Vice Chairman

Members:

Gerald Chapman

Joe Domingo

Bob Jones

Frank Lograsso

Andy Weiss

Attachment